

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEVIN MASSENGALE,

Plaintiff,

v.

KENNETH R. GREEN, JR., et al.

Defendants.

No. 1:24-cv-00065-KES-CDB (PC)

Appeal No. 24-7070

ORDER REGARDING IN FORMA
PAUPERIS STATUS ON APPEAL

(Doc. 15)

On November 4, 2024, the Court adopted findings and recommendations to dismiss the complaint without leave to amend. Doc. 12. Following the entry of judgment, plaintiff filed a notice of appeal and a motion to proceed in forma pauperis. Docs. 14, 15. On December 4, 2024, the Ninth Circuit Court of Appeals referred the matter back to this Court for the limited purpose of determining whether in forma pauperis status should continue for the appeal or whether the appeal is frivolous or taken in bad faith. 28 U.S.C. § 1915(a)(3); Doc. 18.

Federal Rule of Appellate Procedure 24(a)(3)(A) provides that a party who was permitted to proceed in forma pauperis in the district court action may continue to proceed in forma pauperis on appeal without further authorization, unless the district court certifies that the appeal is not taken in good faith. Fed. R. App. P. 24(a)(3)(A). “If at least one issue or claim is found to be non-frivolous, leave to proceed in forma pauperis on appeal must be granted for the case as a whole.” *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). The Court did not find that the appeal is frivolous or taken in bad faith and, therefore, pursuant to Federal Rule of Appellate Procedure 24(a)(3)(A), plaintiff’s in forma pauperis status continues on appeal.

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1 Accordingly, plaintiff's motion to proceed in forma pauperis on appeal (Doc. 15) is denied
2 as moot.

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4 IT IS SO ORDERED.

5 Dated: April 11, 2025


UNITED STATES DISTRICT JUDGE